IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 21064 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ALANKAR TALKIES THROUGH PARTNER - Petitioner(s)

Versus

DISTRICT MAGISTRATE, SURAT - Respondent(s)

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Appearance :

MR PV NANAVATI for Petitioner(s) : 1,MR VIBHUTI NANAVATI for Petitioner(s) : 1,

GOVERNMENT PLEADER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 15/12/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the communication dated 21.9.2005 by which the Additional District Magistrate, Surat addressed to one Panchal Engineering Limited, copy of which is sent to the petitioner, informing the said Panchal Engineering Limited that the cinema license which was in favour of the Manager Alankar Cinema has

been renewed upto 31.10.2005 and thereafter the necessary proceedings will be initiated in accordance with law.

2. It is the contention on behalf of the petitioner that as the cinema license in favour of the petitioner was to be expired on 31.12.2004, the petitioner has submitted an application for the renewal of the license. However, in the meantime, the owner of the land in question from whom the petitioner has taken the land on lease submitted objections informing that the lease in favour of the petitioner has not been extended and on considering that the decision came to be taken by the Additional District Magistrate, Surat and the aforesaid impugned communication was sent to the said Panchal Engineering Limited and he was informed that the cinema license has been renewed upto 31.10.2005. Treating the same as rejection of their application for renewal of license at the instance of the owner of the land in question, the petitioner has preferred the present Special Civil Application under Article 226 of the Constitution of India.

3. Number of submissions have been made on behalf of the parties. However, on going through the impugned communication dated 21.9.2005 it appears that the same cannot be termed as a decision by the Additional

District Magistrat, Surat on the application submitted by the petitioner for the renewal of the cinema license. The petitioner is also not informed that the application submitted by the petitioner for renewal of cinema license is rejected.

4. Under the circumstances, the Additional District Magistrate, Surat is directed to pass an appropriate order in accordance with law and on merits on the application submitted by the petitioner for renewal of cinema license as early as possible preferably within a period of 4 weeks from the date of receipt of this order. Shri P.V.Nanavati, learned advocate appearing on behalf of the petitioner has submitted that there are certain subsequent developments also which the petitioner would like to point out before the Additional District Magistrate, Surat before taking any decision on the application for renewal of cinema license. It will be open for the petitioner to produce further additional documentary evidences in support of his application for renewal of license within a period of 10 days from today and on receipt of the same, the Additional District Magistrate, Surat is directed to consider the same also while deciding the application for renewal of cinema license in accordance with law and on merits. Until an appropriate decision is taken

on the application for renewal of license and the petitioner is communicated the said decision and for the period of 1 week thereafter, the ad-interim relief granted earlier is directed to be continued meaning thereby, the cinema license in favour of the petitioner to be treated as continue without prejudice to the rights and contentions of all the parties. However, it is made clear that this Court has not expressed any opinion on the merits of the case and it is ultimately for the Additional District Magistrate, Surat to consider the application for renewal of the cinema license in accordance with law and on merits on the basis of the material submitted before him.

5. Rule is made absolute to the aforesaid extent, however, there will be no order as to costs.

Direct Service is permitted.

(M.R.SHAH, J.)

kdc.